HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARNUNA REDDY

WRIT PETITION No. 18667 OF 2005

Between:

The Supdt., of Post Offices,
Peddapalli Dn, Peddapalli.

… Petitioner

AND

Smt. Tayaram Padma & another

… Respondents

:: O R D E R ::

Counsel for the petitioner : Shri A. Rajashekar Reddy
Assistant Solicitor General

Counsel for respondent No.1 : Shri D. Radha Krishna

Dated: 05.02.2007

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Per C.V.Nagarjuna Reddy, J

This is a petition for quashing award dated 17-7-2004 passed by Lok Adalat at Manthani in PLC No.3 of 2004, whereby the petitioner was directed to treat respondent No. 1, Tagaram Padma, as nominee of the deceased employee and to give her death benefits as per the rules and the latter was directed to pay Rs. 70,000/- to respondent No. 2, Smt. Arikalla Madhunnamma.

Respondent No.2 is the legally wedded wife of Sri T.Hanumaiah (hereinafter referred to as 'deceased employee'), who served the Postal Department as Postal Assistant. He died on 06.06.2003. While in service, the deceased employee, on 10.12.1987, nominated respondent No.2 to receive the death-cum-retirement gratuity (DCRG). After the death of Sri T. Hanumaiah, respondent No.1 made a representation to the petitioner claiming monetary benefits in lieu of the services rendered by the deceased. She produced legal heir certificate and Will purportedly executed by the deceased employee on 28.01.2003. She claimed that the deceased divorced respondent No.2 in 1975 and married her in accordance with the customs prevailing in the community. Respondent No.2 also made representation dated 8-8-2003 for grant of monetary benefits in lieu of the services rendered by the deceased employee. In view of the rival claims, the petitioner directed respondent No.1 to produce succession certificate from a competent Court of law.

During the pendency of the representations, respondent No.1 filed an application before Lok Adalat, Manthani, seeking a direction for release of the amount payable to the heirs of the deceased employee. The same was registered as PLC No.3 of 2004. The Lok Adalat, on the basis of the settlement reached between respondent Nos.1 and 2, passed award dated 17-7-2004 to the following effect:

> "1. That the petitioner shall pay Rs.70,000/- from the death benefits of late Hanumaiah to the 1st respondent. The 1st respondent shall not claim any future death benefits and any other benefits;
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> 2. The respondent No.2 is directed to treat the petitioner as 'nominee' to late Hanumaiah and provide what are all death benefits that are going to be settled to a nominee as per rules with all future benefits besides recommending the post in which late Hanumaiah served in their department i.e., R-2's department to her blood relation who is eligible candidate as per rules.
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> 3. Any sanction shall be in the name of the petitioner Tagaram Padma from R-2's department only but not in the name of 1st respondent.
>
> 4. The 1st respondent shall not claim anything benefit except receiving Rs.70,000/- from the sanction by R-2's department."

The petitioner has challenged the award on the ground that the Lok Adalat did not have the jurisdiction to issue direction for treating respondent No. 1 as the nominee of the deceased employee and pay her death-cum-retirement gratuity, etcetera.

It is borne out from the record that even though respondent No. 1 filed caveat through her advocate Sri D. Radha Krishna, no counter-affidavit has been filed by her.

Learned Assistant Solicitor General argued that the award passed by the Lok Adalat, Manthani is liable to be quashed because the same is contrary to the provisions of the Central Civil Services (Pension) Rules, 1972 (for short 'the Rules'). He submitted that in terms of the Rules, the person nominated by the deceased employee is entitled to receive monetary benefits and as respondent No.2 was nominated by late Shri T. Hanumaiah, no other person including respondent No.1 is entitled to receive those benefits.

Learned counsel for respondent No.1 submitted that though the deceased employee nominated respondent No.2 to receive the benefits of the service rendered by the deceased employee, the award passed by the Lok Adalath cannot be nullified because the parties had agreed for mutual settlement.

We have considered the respective submissions.

Rule 53 of the Rules envisages that a Government servant shall, on his initial confirmation in a service or post, make a nomination in Form 1 or 2, as may be, as appropriate in the circumstances of the case, conferring on one or more persons the right to receive the retirement gratuity/death gratuity payable under Rule 50. Clause 1(i) of the proviso to Rule 53 prohibits a Government servant, who has a family, to nominate any person other than the members of his family to receive the retirement/death gratuity. Under Rule 50(b) if a Government servant dies while in service, the death gratuity shall be paid to his family in the manner indicated in sub-rule (1) of Rule 51. Under Rule 51(1)(a) the gratuity payable under Rule 50 shall be paid to the person/persons <u>on whom the right to receive the gratuity is conferred by means of a nomination under Rule 53</u>. (emphasis added)

The above analysis of the relevant rules shows that once a nomination is made by a Government servant, the nominee/nominees alone is/are entitled to receive the death/retirement gratuity.

The facts of the present case show that the deceased employee had nominated respondent No. 2 for receiving death-cum-retirement gratuity. Therefore, she alone is entitled to receive monetary benefits in lieu of the service rendered by the deceased employee and respondent No. 1 cannot claim benefit in terms of Rule 53 because she was not nominated by the deceased employee and the direction given by the Lok Adalat for payment of monetary benefit to her is liable to be declared ultra vires the provisions of Rules 50, 51 and 53 of the Rules. In **G.L. Bhatia v. Union of India**[1], the Supreme Court held that where the rights of the parties are governed by the statutory provisions, the individual nomination contrary to the statute shall not operate.

In view of the above discussion, we hold that the Lok Adalat at Manthani had committed a jurisdictional error by directing the petitioner to treat respondent No. 1 as nominee of deceased employee and pay her monetary benefits in lieu of service rendered by him.

In the result, the writ petition is allowed and the award of the Lok Adalat dated 17.07.2004 in PLC.No.3 of 2004 is set aside.

As a sequel to the disposal of the writ petition, WPMP.No.23750 of 2005 filed by the petitioner for interim relief is disposed of as infructuous.

C.V.NNAGARJUNA REDDY, J

G.S.SINGHVI, CJ

Date: 05.02.2007
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[1] (1999) 5 SCC 237